

72/3537

MAHONEY & KEANE, LLP
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

ECF

Attorneys for Plaintiff
PAKRI TANKERS OU

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PAKRI TANKERS OU,

Plaintiff,

08 CV 2424 (GBD)

-against-

AYRES SHIPPING INC.

**DECLARATION IN
OPPOSITION TO
MOTION**

Defendant.

-----X

CHRISTOPHER H. MANSUY declares as follows:

1. I am a member of the Bar of this Court and attorney for plaintiff PAKRI TANKERS OU. I make this Declaration in Opposition to the Motion by Defendant AYRES SHIPPING INC. for an Order compelling Plaintiff PAKRI TANKERS OU to post counter-security or in the alternative seeking an Order staying or dismissing the complaint.

2. PAKRI TANKERS OU opposes this Motion in the first instance on the ground that the Court lacks jurisdiction to hear it because there is no case or controversy as required by Article III of the U.S. Constitution.

3. The reason this Court lacks jurisdiction is that Plaintiff Pakri voluntarily dismissed the action at 3:30 P.M. on April 3, 2008 by delivering electronically to the ECF system a voluntary Notice of Dismissal pursuant to Federal Rules of Civil Procedure 41(a)(1)(i). A copy is annexed hereto as Exhibit "1" along with the confirmation of filing received from ECF.

4. At 3:41 P.M. on April 3, I received a notice by email from the ECF system advising that I should refile the document by submitting it to the Orders and Judgments email address and further advising that "this document is not filed via ECF." See Exhibit "2".

5. At 3:39 P.M. on April 3, I emailed the Notice of Voluntary Dismissal to the attorney for AYRES SHIPPING.

6. At 3:49 P.M. on April 3, I emailed the Voluntary Dismissal to the Orders and Judgments Clerk. See Exhibit "3".

7. At 4:08 P.M. on April 3, Ayres Shipping submitted an Answer to the ECF system.

8. On the morning of April 4, I received an email from the Orders and Judgments Clerk advising that an electronic signature was insufficient and that I was required to file a signed document. See Exhibit "4."

9. At 10:09 A.M. on April 4 I emailed a signed voluntary dismissal to the Orders and Judgments Clerk. See Exhibit "5".

10. Annexed hereto as Exhibit "6" are the relevant electronic and email filing Procedures, Guidelines and Third Amended Instructions posted on the internet by this Honorable Court.

11. I respectfully submit that filing the Notice of Dismissal initially to the ECF system was proper because Rule 5 of the Third Amended Instructions dated June 7, 2004 requires that all documents subsequent to proof of service of the summons and complaint must be filed with ECF.

12. The Guidelines promulgated for electronic case filing on the Court's website on page 5 provide that "Proposed Orders, Judgments and Stipulations should not be submitted through the ECF system. Instead they should be sent by email to the Clerk."

13. A Notice of Voluntary Dismissal filed prior to the time that the Defendant has answered or has filed a Motion for Summary Judgment is, I respectfully submit, a self-executing or self-implementing document requiring no action on the part of any other person including Your Honor.

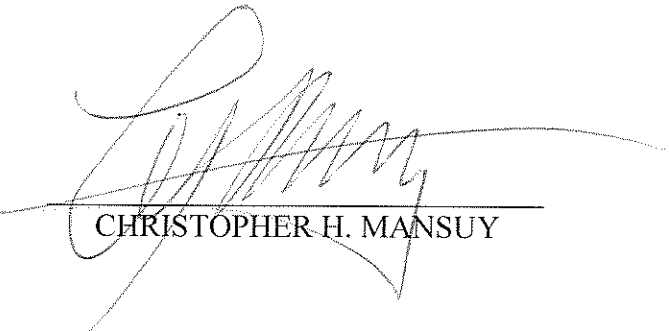
14. At page 13 of Ayres' memorandum of law, Ayres expresses disbelief that Pakri indicated the Ayres action as a related case on the civil cover sheet. The ECF docket reflects that this case was referred to your Honor as possibly related to 08 Civil 554 on March 10, 2008, the same day the verified complaint was filed.

15. For the sake of good order, I should also like to bring to the attention of the Court a fact that bears on one of the grounds raised in the Defendant's motion concerning its request that this Honorable Court make a determination concerning the validity or propriety of the security posted by Defendant AYRES as substitute security for funds attached by Pakri pursuant to the Process of Maritime Attachment and Garnishment issued by the Clerk of this Court pursuant to the Order of this Court dated March 17, 2008.

16. Defendant Ayres arranged for Ace Europe in London to issue a letter of undertaking as substitute security for a London arbitration award favorable to Pakri. The letter prohibits Pakri from publishing the letter to the Court without a Court Order which Pakri hereby requests. However, the last paragraph of the letter contains a forum selection and choice of law clause requiring all disputes concerning it to be resolved by the High Court of Justice at London in accordance with English Law. Accordingly, this Court lacks jurisdiction to adjudicate any dispute concerning the security posted.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed: New York, New York
April 21, 2008



CHRISTOPHER H. MANSUY

MAHONEY & KEANE, LLP
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

Attorneys for Plaintiff
PAKRI TANKERS OU

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PAKRI TANKERS OU,

Plaintiff,

08 CV 2424 (GBD)

-against-

VOLUNTARY
NOTICE OF
DISMISSAL

AYRES SHIPPING INC.,
LASKARIDIS SHIPPING CO. LTD.,
LAVINIA CORP. and RIGA
TRANSPORT FLEET,

Defendants.

-----X

Pursuant to the provisions of Federal Rule of Civil Procedure 41(a)(i)

Plaintiff PAKRI TANKERS OU by its attorneys MAHONEY & KEANE, LLP,
defendants having not answered the complaint or filed a summary judgment motion,
voluntarily dismisses this action without prejudice and without costs to any party.

Dated: New York, New York
April 3, 2008

MAHONEY & KEANE, LLP
Attorneys for Plaintiff
PAKRI TANKERS OU

By: /s/ Christopher H. Mansuy

Christopher H. Mansuy
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

Christopher Mansuy

From: NYSD_ECF_Pool@nysd.uscourts.gov
Sent: Thursday, April 03, 2008 3:31 PM
To: deadmail@nysd.uscourts.gov
Subject: Activity in Case 1:08-cv-02424-GBD Pakri Tankers Ou v. Ayres Shipping Inc. et al Notice (Other)

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

U.S. District Court

United States District Court for the Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Mansuy, Christopher on 4/3/2008 at 3:30 PM EDT and filed on 4/3/2008

Case Name: Pakri Tankers Ou v. Ayres Shipping Inc. et al
Case Number: 1:08-cv-2424
Filer: Pakri Tankers Ou
Document Number: 6

Docket Text:

NOTICE of dismissal. Document filed by Pakri Tankers Ou. (Mansuy, Christopher)

1:08-cv-2424 Notice has been electronically mailed to:

Christopher Henry Mansuy cmansuy@mahoneykeane.com

1:08-cv-2424 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1008691343 [Date=4/3/2008] [FileNumber=4443193-0]
[b322dcddd34555f5a8d60d00e57e6b64cd3541023ac8f6bf7ebc3bba09a74198b790
be03f8391d8d81cfde15a74c1562ea5c79fea69bbd7415bbf722550e6cf7]]

Christopher Mansuy

From: NYSD_ECF_Pool@nysd.uscourts.gov
Sent: Thursday, April 03, 2008 3:41 PM
To: deadmail@nysd.uscourts.gov
Subject: Activity in Case 1:08-cv-02424-GBD Pakri Tankers Ou v. Ayres Shipping Inc. et al Note to Attorney to Re-File Document - Non-ECF Document Error

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

U.S. District Court

United States District Court for the Southern District of New York

Notice of Electronic Filing

The following transaction was entered on 4/3/2008 at 3:40 PM EDT and filed on 4/3/2008

Case Name: Pakri Tankers Ou v. Ayres Shipping Inc. et al

Case Number: 1:08-cv-2424

Filer:

Document Number: No document attached

Docket Text:

*****NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Christopher Henry Mansuy to E-MAIL Document No. [6] Notice of Voluntary Dismissal to orders_and_judgments@nysd.uscourts.gov. This document is not filed via ECF. (db)**

1:08-cv-2424 Notice has been electronically mailed to:

Christopher Henry Mansuy cmansuy@mahoneykeane.com

1:08-cv-2424 Notice has been delivered by other means to:

Christopher Mansuy

From: Christopher Mansuy [cmansuy@mahoneykeane.com]
Sent: Thursday, April 03, 2008 3:49 PM
To: 'orders_and_judgments@nysd.uscourts.gov'
Subject: 08 civil 2424(GBD)
Attachments: Scan4142.pdf

Honorable Sirs:

We herewith file a Notice of Dismissal on behalf of plaintiff Pakri.

Best regards,
Chris Mansuy
Mahoney & Keane LLP
111 Broadway, 10th Floor
New York, New York 10006
Tel: 212-385-1422(ext. 13)
Fax: 212-385-1605
Cell: 973-738-2356

MAHONEY & KEANE, LLP
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

Attorneys for Plaintiff
PAKRI TANKERS OU

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PAKRI TANKERS OU,

Plaintiff,

08 CV 2424 (GBD)

-against-

VOLUNTARY
NOTICE OF
DISMISSAL

AYRES SHIPPING INC.,
LASKARIDIS SHIPPING CO. LTD.,
LAVINIA CORP. and RIGA
TRANSPORT FLEET,

Defendants.

-----X

Pursuant to the provisions of Federal Rule of Civil Procedure 41(a)(i)

Plaintiff PAKRI TANKERS OU by its attorneys MAHONEY & KEANE, LLP,
defendants having not answered the complaint or filed a summary judgment motion,
voluntarily dismisses this action without prejudice and without costs to any party.

Dated: New York, New York
April 3, 2008

MAHONEY & KEANE, LLP
Attorneys for Plaintiff
PAKRI TANKERS OU

By: /s/ Christopher H. Mansuy

Christopher H. Mansuy
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

Christopher Mansuy

From: Orders and Judgements NYSD Clerks [NYSD_Clerk_Judgement@nysd.uscourts.gov]
Sent: Friday, April 04, 2008 8:42 AM
To: cmansuy@mahoneykeane.com
Subject: Re: 08 civil 2424(GBD)

Please sign the attached and resubmit. We do not accept /s/ or electronic signatures.
Thank You O & J.

Christopher Mansuy wrote:

> Honorable Sirs:
>
> We herewith file a Notice of Dismissal on behalf of plaintiff Pakri.
>
>
>
> Best regards,
>
> Chris Mansuy
>
> Mahoney & Keane LLP
>
> 111 Broadway, 10th Floor
>
> New York, New York 10006
>
> Tel: 212-385-1422(ext. 13)
>
> Fax: 212-385-1605
>
> Cell: 973-738-2356
>
>
>

Christopher Mansuy

From: Christopher Mansuy [cmansuy@mahoneykeane.com]
Sent: Friday, April 04, 2008 10:09 AM
To: 'orders_and_judgments@nysd.uscourts.gov'
Subject: 08 civil 2424(GBD)
Attachments: Scan4147.pdf

Honorable Sir:

I resend herewith the Voluntary Dismissal submitted yesterday with signature.

Best regards,
Chris Mansuy
Mahoney & Keane LLP
111 Broadway, 10th Floor
New York, New York 10006
Tel: 212-385-1422(ext. 13)
Fax: 212-385-1605
Cell: 973-738-2356

MAHONEY & KEANE, LLP
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

Attorneys for Plaintiff
PAKRI TANKERS OU

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PAKRI TANKERS OU,

Plaintiff,

08 CV 2424 (GBD)

-against-

VOLUNTARY
NOTICE OF
DISMISSAL

AYRES SHIPPING INC.,
LASKARIDIS SHIPPING CO. LTD.,
LAVINIA CORP. and RIGA
TRANSPORT FLEET,

Defendants.

-----X

Pursuant to the provisions of Federal Rule of Civil Procedure 41(a)(i)

Plaintiff PAKRI TANKERS OU by its attorneys MAHONEY & KEANE, LLP,
defendants having not answered the complaint or filed a summary judgment motion,
voluntarily dismisses this action without prejudice and without costs to any party.

Dated: New York, New York
April 3, 2008

MAHONEY & KEANE, LLP
Attorneys for Plaintiff
PAKRI TANKERS OU

By: 

Christopher H. Mansueto
111 Broadway, 10th Floor
New York, New York 10006
(212) 385-1422

United States District Court
Southern District of New York

Procedures for Electronic Case Filing

March 6, 2003

MANSONY EXH 6

Procedures for Electronic Case Filing

Procedures for Electronic Case Filing

The Court will accept for filing documents submitted, signed or verified by electronic means that comply with the following procedures.

1. Scope of Electronic Filing

(a) The Court will designate which cases will be assigned to the Electronic Filing System. Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court in a case assigned to the Electronic Filing System must be filed electronically. A paper may be filed electronically (i) from a remote location, (ii) by bringing it to the Clerk's office during regular business hours, in a form or electronic format prescribed by the Clerk, for input into the System, or (iii) where permitted by the Court, by bringing the paper to the Clerk's office during regular business hours to be scanned into the System.

(b) Unless limited by their terms to civil cases, the provisions of these procedures relating to electronic filing apply in criminal cases that are initiated by the filing of an indictment or information. Electronic filing procedures shall not apply to applications for arrest, search or electronic surveillance warrants; for other orders in aid of or ancillary to a criminal investigation; or to proceedings relating to the grand jury.

(c) Electronic filing procedures shall not apply to Social Security Cases.

(d) The filing and service of the initial papers in a civil case, including the complaint, the issuance of the summons and the proof of service of the summons and complaint, as well as service of non-party subpoenas, will be accomplished in the traditional manner on paper in accordance with the Federal Rules of Civil Procedure and applicable Local Rules governing service, rather than electronically. In a criminal case, the indictment or information, including any superseders, shall also be filed and given to the defendant in the traditional manner on paper in accordance with the Federal Rules of Criminal Procedure and applicable Local Rules rather than electronically; in addition, service of subpoenas shall be made in the traditional manner on paper in accordance with the Federal Rules of Criminal Procedure and applicable Local Rules. In a case assigned to the Electronic Filing System after it has been opened, parties must promptly provide the Clerk with electronic copies of all documents previously provided in paper form. All subsequent documents must be filed electronically except as provided in these procedures or as ordered by the Court.

2. Eligibility, Registration, Passwords

(a) Attorneys admitted to the bar of this Court, including those admitted pro hac vice and attorneys authorized to represent the United States, may register and may be required to register as Filing Users of the Court's Electronic Filing System. Unless excused by the Court, attorneys not already Filing Users appearing in cases assigned to the Electronic Filing System must register as Filing Users forthwith upon the case being so designated. Registration is in a form prescribed by the Clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and

a declaration that the attorney is admitted to the bar of this Court or authorized to represent the United States.

(b) If the Court permits or requires, a party to a pending civil action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the Clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the proceeding, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

(c) Once registration is completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

(d) In a civil action, the Clerk will enter, as Filing Users to whom Notices of Electronic Filing will be transmitted, (i) each attorney identified on the Civil Cover Sheet, as well as (ii) each additional attorney who subsequently appears in the action and files a Request for Electronic Notification (which may be filed electronically). In a criminal case, the Clerk will enter, as Filing Users to whom Notices of Electronic Filing will be transmitted and who will be granted access to electronically file and retrieve documents in the case, the attorney(s) for the United States identified on the Criminal Designation Form or subsequently identified as representing the United States in the case and each attorney filing a Notice of Appearance on behalf of a defendant. Notices of Appearance on behalf of a criminal defendant will be filed in the traditional manner on paper.

(e) An attorney of record may, by written or electronic request to the Clerk, have transmission of Notices of Electronic Filing to another attorney in his or her firm terminated.

3. Consequences of Electronic Filing

(a) Except as otherwise provided in Procedure 4 herein, electronic filing of a document in the Electronic Filing System consistent with these procedures, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this Court and constitutes entry of the document on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55.

(b) When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court (subject to the exception set out in Procedure 4 below), and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically under Procedure 1, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the Court.

(c) Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the Court is located in order to be considered timely filed that day.

(d) Individual judges' practices should continue to be followed with respect to delivery of courtesy copies.

4. Entry of Court Orders

(a) All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these procedures and entered on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55. Each document signed by a judge shall be scanned so as to contain an image of the judge's signature and shall be filed electronically by the Court, and the manually signed original shall be filed by the Clerk of the Court. In the event of a discrepancy between the electronically filed copy and the manually signed original, the manually signed original shall control.

(b) A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such other form as the Court requires, if any.

5. Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the Court permits paper filing. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are relevant to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this procedure do so without prejudice to their right to file timely additional excerpts or the complete document. Responding parties may file timely additional excerpts that they believe are relevant or the complete document. A party may move for permission to serve and file in hard copy documents that cannot reasonably be scanned. In cases where the record of an administrative or other prior proceeding must be filed with the Court, such record may be served and filed in hard copy without prior motion and order of the Court.

6. Sealed Documents

Documents ordered to be placed under seal may not be filed electronically unless specifically authorized by the Court. A motion to file documents under seal should be filed electronically unless prohibited by law; however, a motion to file under seal that includes a statement of why the filing should not be made electronically may be made in paper copy. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the Clerk.

7. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until one year after all time periods for appeals expire, except that affidavits, declarations and proofs of service must be maintained in

paper form by the Filing User until five years after all time periods for appeals expire. On request of the Court, the Filing User must provide original documents for review.

8. Signatures

(a) The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of the Federal Rules of Civil Procedure, including Rule 11, the Federal Rules of Criminal Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court. Each document filed electronically must indicate that it has been electronically filed. Electronically filed documents must include a signature block and must set forth the name, address, telephone number and (except in criminal cases) the attorney number, all in compliance with Local Civil Rule 11.1. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" typed in the space where the signature would otherwise appear.

(b) No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(c) A document requiring the signature of a defendant in a criminal case may be electronically filed only in a scanned format that contains an image of the defendant's signature.

(d) Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) in any other manner approved by the Court.

9. Service of Documents by Electronic Means

Transmission of the Clerk's Notice of Electronic Filing of a document shall constitute service of such document upon any Filing User in that case. It remains the duty of the attorney for a party to review regularly the docket sheet of the case. Attorneys and pro se parties who are not Filing Users shall be served with a paper copy of any electronically filed pleading or other document. Service of such paper copy must be made according to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules.

10. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in a proceeding assigned to the Electronic Filing System, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Crim.P. 49(c) and Fed.R.Civ.P. 77(d). **It remains the duty of the attorney for a party to review regularly the docket sheet of the case.** The Clerk must give notice in paper form to a person who is not a Filing User in accordance with the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure.

11. Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

12. Public Access

A person may review at the Clerk's office filings that have not been sealed by the Court. A person also may access the Electronic Filing System at the Court's Internet site www.nysd.uscourts.gov by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets in civil and criminal cases and documents in a civil case, but only counsel for the government and for a defendant may retrieve documents in a criminal case. Only a Filing User under Procedure 2 herein may file documents.

3rd Amended Instructions for Filing an Electronic Case or Appeal

Important - your new case is an electronically filed case (ECF case) and you will be required to file documents electronically instead of on paper (with certain exceptions listed below). If you don't have your ECF password yet, you should register now (no fee required) on the CM/ECF page of the Court's website at www.nysd.uscourts.gov. Please follow the instructions below.

ECF Judges:

Baer ***	Castel **	Griesa **	Knapp ***	McMahon *	Preska *	Stein *
Batts *	Cedarbaum***	Haight **	Koeltl *	Motley ***	Rakoff **	Swain **
Berman **	Chin **	Hellerstein **	Kram ***	Mukasey *	Robinson *	Sweet *
Brieant *	Conner *	Holwell **	Leisure **	Owen ***	Sand ***	Wood **
Buchwald **	Cote **	Jones **	Lynch **	Patterson ***	Scheindlin **	Magistrate-
Carter ***	Daniels **	Kaplan *	Marrero **	Pauley **	Sprizzo ***	Judges *
Casey **	Duffy ***	Keenan **	McKenna ***	Pollack **	Stanton ***	

* **ECF Wave 1 Judge**, assigning new cases filed on or after December 2, 2003 to the ECF system.

** **ECF Wave 2 Judge**, assigning new cases filed on or after March 1, 2004 to the ECF system.

*** **ECF Wave 3 Judge**, assigning new cases filed on or after June 7, 2004 to the ECF system.

Important note on non-ECF cases: Older cases filed prior to the above dates, as well as Pro Se cases, Habeas Corpus cases, Social Security cases, and Multi-District Litigation will not be electronically filed and should be filed on paper. Do not file documents electronically in cases that are not assigned to the ECF system.

Instructions

- (1) Electronic cases are opened and service of the initiating documents (complaint, notice of removal, etc.) is accomplished in the traditional manner, on paper.
- (2) **Important** - In addition to serving the initiating documents in the traditional manner, on paper, you are also required to deliver paper copies of the following documents to all other parties (copies available at the courthouse, & on our website):
 - (a) The assigned Judge's Individual Rules
 - (b) USDC/SDNY Instructions for Filing an Electronic Case or Appeal (this document)
 - (c) USDC/SDNY Procedures for Electronic Case Filing
 - (d) USDC/SDNY Guidelines for Electronic Case Filing.
- (3) Within 24 hours of the assignment of a case number, you are required to email to the Clerk of Court the initiating documents in Adobe Acrobat pdf format only. Failure to do so within 24 hours will delay adding your case to the computerized ECF docket. Include a F.R.C.P. Rule 7.1 Statement (if applicable) and any exhibits. The case number, the Judge's initials, and "ECF CASE" must appear in the document's case caption. Each document must be in a separate pdf file no larger than 2.5 megabytes (separate large computer files into smaller parts if necessary, and label accordingly). When sending email, the subject line of the email & the file name of the pdf should list only the case number followed by a document description (ex. "Re: 01cv1234-complaint"). Send the email (do not file on the ECF system) to:

(a) For new civil cases assigned to a Manhattan Judge, email a pdf copy of the documents to

case_openings@nysd.uscourts.gov

(b) For new civil cases assigned to a White Plains Judge, email a pdf copy of the documents to

wpclerk@nysd.uscourts.gov

- (4) File the Affidavit of Service for the initiating document (complaint, notice of removal, etc.) in the following manner:
- (a) electronically file the Affidavit of Service for the initiating document on the ECF system (do not send by email),
 - (b) file the original Affidavit of Service with summons attached in the traditional manner, on paper with the Clerk.
- (5) All subsequent documents, including the Defendant's Answer, must be filed electronically on the ECF system at **ecf.nysd.uscourts.gov**. Electronic filing involves using your ECF password to docket the item directly into the ECF system. Electronic filing is not the same as email to the Clerk. Read the Judge's Individual Rules to determine if courtesy copies (on paper) are required.
- (6) Appeals will be assigned to the ECF system only if the original case was also electronically filed. File the appeal in the traditional manner, on paper. Then within 24 hours of filing the paper copy of your Appeal at the courthouse, you are required to email to the Clerk of Court an electronic copy of the Appeal in pdf format. Include any exhibits. Each document must be in a separate pdf file no larger than 2.5 megabytes. The District Court case number, the Judge's initials, and "ECF CASE" must appear in the document's case caption.

When sending email, the subject line of the email should always list the case number followed by a document description (ex. "Re: 01cv1234-appeal"). Send the email (do not file on the ECF system) to:

- (a) For appeals from an ECF case assigned to a Manhattan Judge, email a pdf copy of the appeal to

appeals@nysd.uscourts.gov

- (b) For appeals from an ECF case assigned to a White Plains Judge, email a pdf copy of the appeal to

wpclerk@nysd.uscourts.gov

- (7) Follow all the rules for Electronic Case Filing (available at www.nysd.uscourts.gov):

- | | |
|--|--------------------------------------|
| (a) SDNY Procedures for Electronic Case Filing | (d) Local Rules of this Court, and |
| (b) SDNY Guidelines for Electronic Case Filing | (e) Federal Rules of Civil Procedure |
| (c) Individual Rules of the Assigned Judge | |

✓ **Learn More About Electronic Case Filing at www.nysd.uscourts.gov**

- ✓ Click on the "[CM-ECF](#)" page for the official ECF filing rules, training information, computer requirements, and more.
- ✓ Attorneys should use the "[Attorney Registration](#)" page to register on-line for a SDNY ECF password (no fee). Your ECF password will be sent to you by email. You must have an ECF password from SDNY District Court to file documents electronically.
- ✓ Sign up now for a SDNY PACER account if you don't already have one. Call (800) 676-6856, or go to <http://pacer.psc.uscourts.gov>
- ✓ Electronically file documents in ECF cases over the Internet at **ecf.nysd.uscourts.gov**
- ✓ Don't have a computer or scanner? Bring your ECF password and the paper documents to the courthouse, and you can use our public computers to electronically file your documents. Call the ECF Help Desk for more information.
- ✓ The **ECF Help Desk** is available to answer your ECF questions from 8:30 AM to 7:00 PM at (212) 805-0800, and from 8:30 AM to 5:00 PM at (914) 390-4204, and by email at **help_desk@nysd.uscourts.gov**

Guidelines for Electronic Case Filing

Frequently Asked Questions about Electronic Case Filing

Click on a frequently asked question to find an answer.

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What is the web address for the SDNY ECF system?

The new ECF system will be on the Internet at <https://ecf.nysd.uscourts.gov>

Should I use Netscape Navigator or Internet Explorer to use ECF?

Only Netscape Navigator 4.6, 4.7, or Internet Explorer 5.5 have been certified for use with the ECF program. Other browsers have not been certified, and while they may work part of the time, they may also cause errors in the middle of filing.

Is there a limit to the size of a document that can be filed on ECF?

Yes, 2.5 megabytes (approximately 50 pages). If your file is too large, the system will reject it. The solution is to separate an oversized file into 2 or more parts and docket it in a single event. Simply label each file 1, 2, 3, etc. In all cases assigned to the ECF system, no single document totaling more than 15 megabytes (even if separated into individual computer files) shall be electronically filed without prior permission of the Court.

Can I file documents that originate on paper and are then scanned to create a pdf file?

Yes, but....the ECF system will not accept any single document that is larger than 2.5 megabytes, or approximately 50 pages. Wherever possible, you should create pdf files directly from a word processing program. When you create a pdf file from a scanned paper document, the file size is significantly larger. This may prevent you from filing it as a single document on the ECF system and will also take up unnecessary computer memory on your own computer system. Besides, it's easier to create a pdf directly from a word processor.

Who can file documents on ECF?

Only an attorney admitted to practice in SDNY, and registered to use the ECF system, or an "authorized agent" of the filing user, is permitted to file (ECF Procedures, 8b). A filing will be deemed to be the sole responsibility of the filing user whose log-in and password were used to file the document. Be careful whom you allow to use your ECF log-in and password. Attorneys can register on-line to use ECF at http://www1.nysd.uscourts.gov/ecf_registration.php

Can an attorney admitted Pro Hac Vice file documents electronically?

Yes. Immediately after a motion to be admitted pro hac vice is granted, the attorney is required to register to be an ECF Filing User at http://www1.nysd.uscourts.gov/ecf_registration.php

Will I need a password to use ECF?

Yes, 2 passwords - one for the ECF system and one for PACER. To obtain an ECF password you must first register to be an ECF Filing User at http://www1.nysd.uscourts.gov/ecf_registration.php

To obtain a PACER password go to <http://ecf.nysd.uscourts.gov> If you already use dial up PACER service, then you don't need to change anything - your log-in and password will remain the same.

When a document is electronically filed, all ECF registered attorneys of record in that case will receive an email titled NOTICE OF ELECTRONIC FILING and a hypertext link to the document. That is your "one free look" at the document. If you need a second look or want to view other cases where you are not the attorney of record, you will be required to enter your PACER log-in and password.

Can I view both civil and criminal dockets over the Internet?

Civil dockets are available remotely over the Internet to anyone with a PACER account. Criminal dockets are available remotely over the Internet only to the attorney of record. As always, all civil and criminal dockets may be viewed on public access computers at the courthouse.

How can I sign up other attorneys in my firm to receive electronic notices in my case?

By adding them as an additional attorney of record. Every attorney of record will receive email notification of filings in his or her case. The ECF system will allow up to two attorneys of record to be entered in each case. Of course, each attorney must be a registered ECF filing user.

Must the caption of the document indicate it has been electronically filed?

Yes. (SDNY ECF Procedures, 8a).

How will I know if I have successfully filed a document electronically?

The filer will immediately receive a Notice of Electronic Filing, which should be saved and/or printed; it's your receipt. You will also see a list of who will be served electronically and who will not. It is the responsibility of the filing party to serve paper copies on any party that will not receive electronic notice.

What if I file the wrong document, or file in the wrong case?

In all cases assigned to the ECF system, if a document is electronically filed in error, the filer shall

immediately notify the Clerk of Court in writing, and the Clerk shall seek further guidance from the Court.

How do I sign an electronically filed document?

The filing user's ECF log-in and password serve as his/her electronic signature. (ECF Procedures #8). The filing user should place an S/ in place of the signature. Signatures for all other persons must be scanned in order to capture the actual ink signature.

Will older cases be assigned to the ECF system?

No. Only those cases filed after the ECF system goes live are subject to electronic filing. Cases filed before the ECF system goes live will not be converted to ECF cases. You will be able to view the docket sheets in older cases on-line, but not the documents.

Which cases will be ECF cases?

Civil and criminal cases filed after December 1, 2003, will be subject to electronic filing. Social Security cases, Habeas Corpus cases and Pro Se cases will not be assigned to the ECF system.

Which Judges will entertain ECF cases?

Eventually all the courts Judges and Magistrate-Judges will be able to entertain ECF cases. Groups of judges will be added to the ECF system over a 12 month period. Parties are directed to refer to each judge's individual rules (available on the court's website) to learn whether a particular case will be assigned to the ECF system.

How do I view a document in an ECF case?

Use an approved Internet web browser (see above) and go to <https://ecf.nysd.uscourts.gov> Click on Query, enter the case number, find the document, and click on the blue hyperlink next to that entry. An electronic copy of the complete document will then appear on your computer screen. If there is no blue hyperlink, then there is no electronic version of that document.

Does filing electronically affect the filing deadline?

No. Filing electronically does not change your obligation to comply with the Federal Rules and any applicable Local Rules. Filing must be completed before midnight local time in order to be considered timely filed that day (ECF Procedures 3c)(See also Judges Individual Rules).

How do I open an ECF case?

See Instructions for Filing an Electronic Case or Appeal

Must I serve a copy of the assigned Judge's Individual Rules with the complaint?

Yes. Copies of Judges' Individual Rules are available at the Clerk's Office and also on this Court's public website.

Must I file a paper Summons and Affidavit of Service for the Complaint?

Yes. For ECF cases, the Affidavit of Service with the original summons attached must be filed with the court in the traditional manner, on paper (ECF Procedures, 1d).

Must I file a paper Affidavit of Service for other documents in the case?

No. For all other electronically filed documents after the complaint, the Clerk will automatically transmit by email a Notice of Electronic Filing to each attorney of record that has registered to be an ECF Filing user. Transmission of that Notice of Electronic filing shall constitute service (ECF Procedures, 9).

How do I serve my adversary who has not registered to be an ECF Filing User?

Upon completion of filing electronically, the filer will receive a receipt which should be printed and saved. The receipt will include a list of who will be served electronically and who will not. The ECF system does not relieve filers from their obligations under the Federal Rules of Civil and Criminal Procedure to serve paper copies on any party that will not receive electronic notice.

When filing a motion, should the supporting affidavit be attached or filed separately?

Electronically filed motions should be filed in the traditional manner. Supporting affidavits and exhibits that would normally be filed attached to the motion should also be filed attached to an electronic motion. Other affidavits and memoranda of law that would normally be filed separately from the motion should be filed separately from an electronic motion. Exhibits attached to a motion must comply with the Court's Procedures for Electronic Case Filing, section 5. Excerpted material must be clearly marked as such.

How should I submit exhibits not attached to a motion?

The Court's Procedures for Electronic Case Filing, section 5, requires that attachments and exhibits must be submitted in electronic form, unless the Court permits paper filing. Only relevant excerpts of exhibits, labeled as such, should be submitted. Remember, there are limits to the size of a computer file that may be submitted (see page 1). A party may move for permission to serve and file in hard copy documents that cannot reasonably be scanned.

How do I file a proposed order, judgment or stipulation?

Proposed orders, judgments and stipulations should not be submitted through the ECF system. Instead they should be sent by email to the Clerk.

Counsel are directed to follow the individual Judge's Rules regarding the submission of courtesy copies to chambers.

Proposed orders should be submitted in word processing format (WordPerfect or Word) rather than as a pdf document. Stipulations should be submitted in pdf format. Stipulations must contain all required signatures (the last person to sign can email it to the clerk). Email the proposed order, judgment or stipulation to:

For cases assigned to a Manhattan Judge: orders_and_judgments@nysd.uscourts.gov

For cases assigned to a White Plains Judge: wpclerk@nysd.uscourts.gov

How do I file an Order to Show Cause?

In all cases assigned to the ECF system, Orders to Show Cause seeking a stay shall be submitted in the traditional manner, in person before the Court.

Orders to Show Cause that do not seek a stay, shall be submitted by email (not filed on the ECF system) to the Clerk in word processing format (WordPerfect or Word) rather than as a pdf document. Email the proposed Order to Show Cause to:

For cases assigned to a Manhattan Judge: orders_and_judgments@nysd.uscourts.gov

For cases assigned to a White Plains Judge: wpclerk@nysd.uscourts.gov

How do I file a default judgment?

Default judgments should not be submitted through the ECF system. Instead they should be sent by email to the Clerk, in word processing format (WordPerfect or Word) rather than as a pdf document. Email the default judgment documents to:

For cases assigned to a Manhattan Judge: orders_and_judgments@nysd.uscourts.gov

For cases assigned to a White Plains Judge: wpclerk@nysd.uscourts.gov

How do I submit a letter?

In the traditional manner on paper. Do not submit letters through the ECF system. (See also each Judge's Individual Rules).

Will sealed documents be filed electronically?

No. Sealed documents will be filed in the traditional manner, in paper form.

How do I file a Notice of Appeal?

To file a Notice of Appeal you must file the Notice on paper at the courthouse, including a copy of the document being appealed, and pay any applicable fee. (See SDNY ECF Procedures, 1d). Then you must email (not electronically file) a pdf copy of all filed documents to the Clerk of Court within 24 hours. All documents must be marked with the District Court case number and assigned Judge's name.

Email a copy of all filed documents in pdf format to:

For cases assigned to a Manhattan Judge: appeals@nysd.uscourts.gov

For cases assigned to a White Plains Judge: wpclerk@nysd.uscourts.gov

Failure to email the pdf copy of the Notice of Appeal to the Clerk within 24 hours may result in a delay in adding the appeal to the Court's electronic docket.

Which is the "original" document, the paper or the ECF version?

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed (ECF Procedures 3b).

Must I keep paper originals of documents I electronically file?

Yes. See the official SDNY PROCEDURES FOR ELECTRONIC FILING, section 7 for details.

Should I continue to submit courtesy copies?

Counsel are directed to follow the individual Judge's Rules regarding the submission of courtesy copies to chambers. If you would submit a courtesy copy of the document in a non-ECF case, you should now submit a courtesy copy of it in an ECF case. (See also each Judge's Individual Rules)

When an attorney leaves a firm, how do we change the attorney's ECF Registration information?

Send written notice to the Attorney Admissions Clerk, 500 Pearl Street, NY, NY 10007.

Will there be an ECF Help Desk?

Yes. An ECF telephone Help Desk will be available from 8:30 AM to 7:00 PM Monday through Friday at (212) 805-0800, and from 8:30 AM to 5:00 PM at (914)390-4204. Or you can email your ECF questions to help_desk@nysd.uscourts.gov

How can I stay up to date with future ECF news and developments?

By registering to be a Point of Contact (POC) at http://www1.nysd.uscourts.gov/ecf_poc.php, you will receive periodic email messages concerning the ECF system. You don't need to be an attorney to be a POC.

How can I learn how to use ECF?

On this Court's website you will find a link to "ECF Training", an on-line introduction to ECF, as well as detailed training materials for beginners and advanced users.

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